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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,275	11/09/2005	Patrick Lewis Blott	56108/315290	7350

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CHIEF PATENT COUNSEL  
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EXAMINER
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KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/533,275

Applicant(s)

BLOTT ET AL.

Examiner

Michele Kidwell

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3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/30/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

Claims 6 – 8 are objected to because of the following informalities: a Markush-type claim recites alternatives in a format such as “selected from the group consisting of A, B and C.” See *Ex parte Markush*, 1925 C.D. 126 (Comm’r Pat.1925).

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, the applicant includes several limitations that are listed as optional or necessary. See sections b – d of the claim. It is unclear whether or not the applicant is positively claiming these components. Therefore, the scope of the claim is unclear. Likewise, the applicant claims a ‘wound facing face’. This term is unclear and also renders the claim indefinite.

Claim 1 recites the limitation “the wound facing face” in lines 8, 11 – 12 and 14 – 15. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the circulating fluid" in lines 3 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the circulating fluid" in lines 3 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the circulating fluid" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the circulating fluid" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 3, 6 – 8 and 9 – 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Swanbeck (WO 84/01904).

With reference to claims 1 – 3, 6 – 8 and 9 – 10, Swanbeck discloses an apparatus for cleansing wounds comprising a) a fluid flow path (figure 10, comprising i) a conformable wound dressing (10), having a backing layer which is capable of forming a relatively fluid-tight seal or closure over a wound (page 3, 1<sup>st</sup> paragraph) at least one inlet pipe (area to immediate left of element 10 in figure 1) for connection to a fluid supply

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Tube (11), which passes through and/or under the wound-facing face, at least one outlet pipe (area to immediate right of element 10 in figure 1) for connection to a fluid offtake tube (12), which passes through and/or under the wound-facing face (figure 1), the point at which the or each inlet pipe and the or each outlet pipe passes through and/or under the wound-facing face forming a relatively fluid-tight seal or closure over the wound (page 3, 1<sup>st</sup> paragraph), at least one inlet pipe being connected to a fluid recirculation tube, and at least one outlet pipe being connected to a fluid offtake tube (figure 1) ii); and a means for fluid cleansing having at least one inlet port connected to a fluid offtake tube and at least one outlet port connected to a fluid recirculation tube as set forth in figure 1. The examiner contends that language in sections b – d is stated as being optional is not considered as a positive structural element and therefore, not required in order to meet the limitations of the claimed invention.

As to claim 2, Swanbeck discloses an apparatus comprising a means for fluid cleansing that is a single-phase system, in which the circulating fluid from the wound passes through the means for fluid cleansing and materials deleterious to wound healing are removed, without the circulating fluid coming into direct or indirect contact with another fluid in the means for fluid cleansing as set forth in the abstract.

With reference to claim 3, Swanbeck discloses an apparatus comprising a means for fluid cleansing that is a two-phase system, in which the circulating fluid from the wound passes through the means for fluid cleansing and materials deleterious to wound healing are removed, by the circulating fluid coming into direct or indirect contact with another fluid in the means for fluid cleansing as set forth on page 3,

lines 4 – 6.

Regarding claims 6 – 8, see page 4, 2<sup>nd</sup> paragraph.

As to claims 9 and 10, see the rejection of claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 – 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swanbeck (WO 84/01904).

With reference to claims 4 – 5, Swanbeck discloses a means for fluid cleansing, including an additional fluid as set forth on page 3, lines 4 – 6.

The difference between Swanbeck and claims 4 – 5 is the provision of whether or not the integer (17) is selectively permeable.

Absent a teaching of any unexpected result, the examiner contends that the claimed limitation does not patentably distinguish the claimed invention from the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michele Kidwell  
Primary Examiner  
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